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OFFICE OF PETITIONS

In re	:
Edwards, et al.	:
Application No. 09/876,997	: DECISION REGARDING
Filed: June 8, 2001	: PATENT TERM ADJUSTMENT
Patent No. 7,060,479	:
Issued: June 13, 2006	:

This decision is in response to the letter titled "COMMUNICATION", filed June 18, 2006, requesting correction of the patent term adjustment (PTA) indicated on the patent.

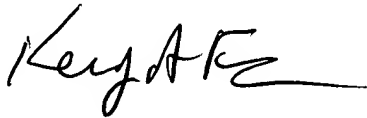
The request is **DISMISSED**.

The Office determined a patent term adjustment of six hundred forty (640) days based on an adjustment for PTO delay of two hundred fifty-seven (257) days pursuant to 35 U.S.C. 154(b)(1)(A)(i) and 37 C.F.R. § 1.703(a)(1), one hundred eighty (180) days pursuant to 35 U.S.C. 154(b)(1)(A)(ii) and 37 C.F.R. § 1.703(a)(2), one hundred ninety-three (193) days pursuant to 35 U.S.C. 154(b)(1)(A)(iv) and 37 C.F.R. § 1.703(a)(6), and one hundred five (105) days pursuant to 35 U.S.C. 154(b)(1)(B) and 37 C.F.R. § 1.703(b), reduced by thirty-one (31) and sixty-four (64) days of applicant delay pursuant to 35 U.S.C. 154(b)(2)(C)(ii) and 37 C.F.R. § 1.704(b).

As pointed out by Patentees, applicant delay of thirty-eight (38) days should have been assessed, not thirty-one (31) days. The Office mailed an Office action on August 21, 2003. Applicants did not file a response until December 29, 2003, not December 22, 2003 as indicated in PAIR. While the response did contain a Certificate of Mailing dated December 22, 2003, Certificates of Mailing are not taken into account in the determination of patent term adjustment. Accordingly, for PTA purposes, the response was not timely, and thirty-eight (38) days should have been assessed for this filing, not thirty-one (31) days.

However, the Office did not mail an Office action in response until October 19, 2004. The Office was assessed one hundred eighty (180) days for this response, based on applicant's filing of December 22, 2003. As Patentees demonstrated that their response was actually filed on December 29, 2003, then the Office should not have been assessed one hundred eighty (180) days for the October 19, 2004 Office action, but rather one hundred seventy three (173) days. The net result is no change in the determination of the patent term adjustment.

Telephone inquiries specific to this letter should be directed to Cliff Congo, Petitions Attorney, at (571)272-3207.

A handwritten signature in black ink, appearing to read 'Kery Fries', with a stylized flourish at the end.

Kery Fries
Senior Legal Advisor
Office of Patent Legal Administration
Office of Deputy Commissioner
for Patent Examination Policy